

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAPACIFIC CENTURY INTERNATIONAL
LTD,

No. C-11-02533-DMR

Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE AN
AMENDED COMPLAINT**

v.

DOE 1,

Defendant.

Plaintiff Pacific Century International, Ltd. ("Plaintiff") moves the court pursuant to Federal Rule of Civil Procedure 15(a)(2) for leave to file an amended complaint. [Docket No. 8.] Such motions are "liberally granted where from the underlying facts or circumstances, the plaintiff may be able to state a claim." *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987) (citation and quotation marks omitted); *accord Foman v. Davis*, 371 U.S. 178, 182 (1962). A court will deny a motion to amend only if it makes a finding of "bad faith, undue delay, prejudice to the opposing party, [or] futility of amendment." *DCD Programs, Ltd.*, 833 F.2d at 186 (citation omitted); *accord Foman*, 371 U.S. at 182.

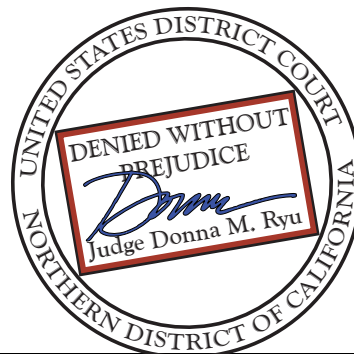
After reviewing Plaintiff's proffered amended complaint, the court finds that amendment would prove futile, *see DCD Programs, Ltd.*, 833 F.2d at 188, and therefore denies Plaintiff's motion. Plaintiff seeks to permissively join numerous unnamed defendants in the case on the

grounds that each used BitTorrent to download and/or distribute “a singular and unique computer file that is identifiable by its hash value” (“File”). (Pl.’s Mot. Am. Compl. Ex. A. ¶ 6; *see* Pl.’s Mot. Am. Compl. Ex. A ¶¶ 8, 23, 28, 33-35, 38.) However, as Plaintiff noted in its supplemental briefing, that individuals downloaded the File does not necessarily indicate that they are “connected to the same transaction, occurrence or series of transactions or occurrences, or . . . show they specifically acted in concert.” *Io Group, Inc. v. Does 1-435*, No. C-10-4382, 2011 WL 445043, at *3 (N.D. Cal. Feb. 3, 2011); *accord* Fed. R. Civ. P. 20(a)(2). [*See* Docket No. 13 Ex. A ¶¶ 11 (noting that single swarm “tends to develop” from uploads of same file with unique hash value to multiple, independent BitTorrent websites) (emphasis added), 13 (same), 20 (stating that it is merely “very likely” that unnamed defendants listed in Ex. A to proposed amended complaint participated in single swarm).] Furthermore, the language in Plaintiff’s proposed amended complaint repeatedly suggests that the unnamed defendants participated in one of several swarms sharing the File (*see, e.g.*, Pl.’s Mot. Am. Compl. Ex. A ¶¶ 8, 23, 28, 33, 35, 38) and consequently did not take part in the same transaction, occurrence, or series of transactions or occurrences. The facts as alleged in Plaintiff’s proposed amended complaint do not meet the permissive joinder requirements of Rule 20.

The court denies Plaintiff’s motion and grants Plaintiff leave to amend by no later than August 26, 2011. *DCD Programs, Ltd.*, 833 F.2d at 186, 188. When submitting its renewed motion, Plaintiff shall include any further legal or factual information it deems appropriate, but otherwise may reference the current motion.

IT IS SO ORDERED.

Dated: August 11, 2011



DONNA M. RYU
United States Magistrate Judge